

1 BILL NO. G-90-02-10 (as amended)

2 GENERAL ORDINANCE NO. 02-90

3 AN ORDINANCE amending Chapter
4 12 of the Fort Wayne City Code
5 to add a New Article VI
6 thereto entitled "COMMUNITY
7 RIGHT TO KNOW."

8 ARTICLE VI COMMUNITY RIGHT TO KNOW

9 SECTION 1. DEFINITIONS. As used in this Article
10 VI:

11 (a) The term "Extremely Hazardous Substance"
12 means any substance so designated by the U.S. EPA by
13 regulations adopted under the federal Act.

14 (b) The term "Facility" means all buildings,
15 equipment, structures, and other stationery items that are
16 located on a single site or on contiguous or adjacent sites
17 and that are owned, operated or leased by the same person or
18 by any person who controls, is controlled by, or is under
19 common control with that person. For purposes of the
20 notification required by Section 5 hereof, the term includes
21 motor vehicles, rolling stock and aircraft.

22 (c) The term "Federal Act" means Title III of the
23 "Superfund Amendments and Reauthorization Act of 1986," 100
24 STAT. 1728, 42 U.S.C. 11001, as amended.

25 (d) The term "Fire Department" means the Fire
26 Department of the City of Fort Wayne.

27 (e) The term "Hazardous Chemical" has the meaning
28 given to that term in 29 C.F.R. 1910.1200(c), but does not
29 include any of the following:

30 (i) Any food, food additive, color additive,
31 drug, or cosmetic regulated by the Food and Drug
32 Administration of the United States Department of
Health and Human Services;

(ii) Any substance present as a solid in any
manufactured item to the extent that exposure to the
substance does not occur under normal conditions of
use;

1 (iii) Any substance to the extent it is used
2 for personal, family, or household purposes or is
3 present in the same form and concentration as a product
4 packaged for distribution to and used by the general
5 public, including, without limitation, household and
6 consumer products that are stored prior to or displayed
7 for distribution to the consumer when in the same form
8 and concentration as such products when not intended
9 for use by the general public in the same form and
10 concentration;

11 (iv) Any substance to the extent it is used
12 in a research laboratory or hospital or other medical
13 facility under the direct supervision of a technically
14 qualified individual;

15 (v) Any substance to the extent it is used
16 in routine agricultural operations or is a fertilizer
17 held for sale by a retailer to the ultimate customer.

18 (f) The term "Hazardous Material" has the
19 meaning given to that term in 49 C.F.R. 171.8

20 (g) The term "Hazardous Substance" means any
21 substance so designated under the "Comprehensive
22 Environmental Response, Compensation, and Liability Act of
23 1980" 94 STAT. 2767, 42 U.S.C. 9601, as amended and
24 regulations promulgated thereunder.

25 (h) The term "Local Emergency Planning Committee"
26 or "Committee" means the Allen County Local Emergency
27 Planning Committee.

28 (i) The term "person" means any individual,
29 trust, firm, joint stock company, corporation
30 (including a government corporation, partnership,
31 association, state, municipality, commission, political
32 subdivision of a state, or interstate body.

(j) The term "U.S. EPA" means the United States
Environmental Protection Agency.

SECTION 2. REPORTING REQUIREMENTS.

(a) Except as provided in subparagraph (d) of this Section, any person who owns or operates a Facility and is required to prepare or have available a Material Safety Data Sheet for a Hazardous Chemical under the "Occupational Safety and Health Act of 1970," 84 STAT. 1590, 29 U.S.C. 651, as amended, and regulations promulgated thereunder, and who has not already complied with the provisions of this Section 2(a), shall, no later than thirty (30) days after the effective date of this Ordinance, submit to the Local Emergency Planning Committee and the Fire Department a list of any Hazardous Chemicals and Extremely Hazardous Substances that are present at the Facility in an amount that exceeds the threshold level applicable to each Hazardous Chemical or Extremely Hazardous Substance established by regulations adopted under the Federal Act. The list shall include all of the following:

(i) A listing of the Hazardous Chemical and Extremely Hazardous Substances for which a Material Safety Data Sheet is required, grouped by hazard category in the manner prescribed by regulations adopted under the Federal Act;

(ii) The chemical name or common name of each Hazardous Chemical and Extremely Hazardous Substance;

(iii) Except for the reporting of mixtures under subparagraph (b) of this Section, any hazardous component of each Hazardous Chemical as provided on the Material Safety Data Sheet;

(iv) For each Hazardous Chemical or Extremely Hazardous Substance, an indication as to whether the owner or operator of the Facility has withheld information pursuant to a trade secret claim under the Federal Act.

(b) The owner or operator of the Facility may meet the requirements of subparagraph (a) of this Section for a Hazardous Chemical that consists of a mixture of Hazardous Chemicals by (i) providing the information required by subparagraph (a) of this Section for each component in the mixture that is a Hazardous Chemical, or (ii) providing the information required by subparagraph (a) of this Section on the mixture itself.

(c) Within ~~sixty~~ ^{ninety 90 days} after the discovery of significant new information concerning a Hazardous Chemical or Extremely Hazardous Substance identified in the list required by subparagraph (a) of this Section or within ~~sixty~~ ^{ninety} ~~(60)~~ ^{90 days} after first obtaining a Hazardous Chemical or Extremely Hazardous Substance for which reporting is required by subparagraph (a) of this Section, the owner or operator of a Facility shall prepare a revised list that meets the requirements of said subparagraph (a) and contains the new information and shall submit such revised list to the Local Emergency Planning Committee and the Fire Department. If the owner or operator submits a revised list due to the discovery of significant new information about a chemical or substance on the current list for which the Local Emergency Planning Committee had requested a Material Safety Data Sheet, such owner or operator shall also submit a revised Material Safety Data Sheet to the Committee and the Fire Department.

(d) The owner or operator of any Facility at which no more than ten Hazardous Chemicals or Extremely Hazardous Substances are present in an amount that exceeds the threshold level applicable to each Hazardous Chemical or Extremely Hazardous Substance established by regulations adopted under the Federal Act may, in lieu of the list required under subparagraph (a) of this Section, submit the applicable Material Safety Data Sheets to the Local Emergency Planning Committee and the Fire Department.

(e) No person shall fail to comply with this Section. Each day that a person is in noncompliance with this Section shall constitute a separate violation hereunder, and any person who violates this Section shall pay a civil penalty of not more than Two Thousand Five Hundred Dollars (\$2,500) for each such violation. The Committee may, in its discretion, commence an action under this Section against any person who violates the provisions of this Section. Any action under this Section is a civil action, governed by the general rules, practice and procedure applicable to civil actions in the state of Indiana. In addition to an action for civil penalties, the Committee may, in its discretion, bring an action for injunctive relief to permanently enjoin any person from further violations of the provisions of this Section and the Federal Act.

SECTION 3. ANNUAL REPORTING REQUIREMENTS.

(a) The owner or operator of a Facility that is required to prepare or have available a Material Safety Data Sheet for a Hazardous Chemical under the "Occupational Safety and Health Act of 1970," 84 STAT. 1590, 29 U.S.C. 1651, as amended, and regulations promulgated thereunder, and that had present at the Facility during the preceding calendar year an amount of a Hazardous Chemical or an Extremely Hazardous Substance exceeding the threshold level for that chemical or substance established by regulations adopted under the Federal Act shall, no later than the effective date of this Ordinance, and no later than the first day of March annually thereafter, submit an Emergency and Hazardous Chemical Inventory Form (the "Inventory Form") to the Local Emergency Planning Committee and to the Fire Department. The Inventory Form shall be that prescribed by the Committee and shall contain for each such Hazardous Chemical or Extremely Hazardous Substance information that has been designated as Tier I information under the Federal

1 Act. The owner or operator of such Facility may submit an
2 Inventory Form containing information that has been
3 designated as Tier II information under the Federal Act in
4 lieu of Tier information for any Hazardous Chemical or
5 Extremely Hazardous Substance present at the Facility.

6 Upon request of the Local Emergency Planning Committee
7 or the Fire Department, the owner or operator of a Facility
8 that is subject to this Section shall, no later than 30 days
9 after receiving such request, submit an Inventory Form
10 containing information that has been designated as Tier II
11 information under the Federal Act. Such Inventory Form
12 shall include all of the following information:

13 (i) The chemical name or common name of the
14 chemical as provided on the Material Safety Data Sheet;

15 (ii) An estimate of the maximum daily
16 amount, in pounds, of the Hazardous Chemical reported
17 in reporting ranges as established in regulations
18 adopted under the Federal Act present at the Facility
19 on any single day during the reporting period;

20 (iii) An estimate in pounds of the average
21 daily amount of the Hazardous Chemicals reported in
22 such reporting ranges that are present at the Facility
23 during the reporting period;

24 (iv) A brief description of the manner of
25 storage of the Hazardous Chemical or Extremely
26 Hazardous Substance;

27 (v) All nonconfidential locations of the
28 Hazardous Chemical or Extremely Hazardous Substance at
29 the Facility; and

30 (vii) An indication as to whether the owner
31 or operator chooses to assert a trade secret claim with
32 respect to any Hazardous Chemical or Extremely
Hazardous Substance that was present at the Facility at
any time during the preceding year in accordance with
the provisions of the Federal Act. The owner or

operator of such Facility shall submit the Tier II information on an Inventory Form prescribed by the Committee.

(b) No person shall fail to comply with this Section. Each day that a person is in noncompliance with this Section shall constitute a separate violation hereunder, and any person who violates this Section shall pay a civil penalty of not more than Two Thousand Five Hundred Dollars (\$2,500) for each such violation. The Committee may, in its discretion, commence an action under this Section against any person who violates the provisions of this Section. Any action under this Section is a civil action, governed by the general rules, practice and procedure applicable to civil actions in the state of Indiana. In addition to an action for civil penalties, the Committee may, in its discretion, bring an action for injunctive relief to permanently enjoin any person from further violations of the provisions of this Section and the Federal Act.

SECTION 4. AFFIRMATIVE OBLIGATIONS. The owner or operator of any Facility at which there is present a Hazardous Chemical or an Extremely Hazardous Substance in an amount that exceeds the threshold level for that substance established by regulations adopted under the Federal Act shall, in accordance with such Act, and regulations promulgated thereunder, do all of the following:

(a) No later than three (3) months after becoming subject to the Federal Act, notify the Local Emergency Planning Committee that the Facility is subject to the Federal Act, and shall further notify the Local Emergency Planning Committee of a Facility Representative who will participate in the Committee's Emergency Planning Process as the Facility Emergency Coordinator;

(b) Promptly inform the Local Emergency Planning

Committee of any changes occurring at the Facility that may be relevant to the Emergency Planning Process;

(c) Upon request of the Local Emergency Planning Committee, promptly provide information to the Committee that is necessary for developing and implementing the Local Emergency Response Plan, as that term is defined under the Federal Act. Information that is provided under this Section is subject to the restrictions on the release of trade secret information under the Federal Act;

(d) No person shall fail to comply with this Section. Each day that a person is in noncompliance with this Section shall constitute a separate violation hereunder, and any person who violates this Section shall pay a civil penalty of not more than Two Thousand Five Hundred Dollars (\$2,500) for each such violation. The Committee may, in its discretion, commence an action under this Section against any person who violates the provisions of this Section. Any action under this Section is a civil action, governed by the general rules, practice and procedure applicable to civil actions in the state of Indiana. In addition to an action for civil penalties, the Committee may, in its discretion, bring an action for injunctive relief to permanently enjoin any person from further violations of the provisions of this Section and the Federal Act.

SECTION 5. EVENT OF A RELEASE.

(a) In the event of a release of a Hazardous Chemical or an Extremely Hazardous Substance from a Facility that is reportable under the Federal Act, the owner or operator of such Facility shall immediately notify both the Local Emergency Planning Committee and the Fire Department.

(b) For any release for which a written follow-up emergency notice is required by the Federal Act, that notice shall be provided to the Local Emergency Planning Committee.

(c) Whenever an owner or operator of a Facility is required to submit any report to the U.S. EPA under regulations adopted under Section 104 of the "Comprehensive Environmental Response, Compensation and Liability Act of 1980," 94 STAT. 2767, 42 U.S.C. 9601, as amended, concerning the circumstances relating to the sudden, accidental release of a Hazardous Chemical or Extremely Hazardous Substance at or from the Facility, such owner or operator shall submit a copy of the Report to the Local Emergency Planning Committee at the same time.

SECTION 6. SUPPLEMENT TO STATE AND FEDERAL LAW.

It is the intent of this Ordinance to supplement the provisions of the Federal Act and such other federal and state statutes, rules and regulations as may be applicable with respect to any Facility that produces, uses, stores or otherwise has possession of Hazardous Chemical, Hazardous Substances or Extremely Hazardous Substances. No provision of this Ordinance shall be deemed to supersede any federal or state requirement and to the extent that any provision herein conflicts with the Federal Act or any other federal or state statute, rule or regulation, such federal or state statute, rule or regulation shall control.

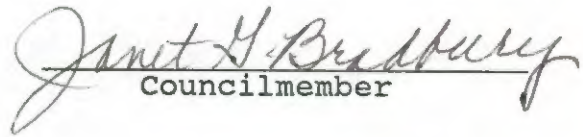
SECTION 7. JURISDICTION AND ENFORCEMENT. The

Local Emergency Planning Committee shall have the responsibility of enforcing the provisions of this Ordinance and may bring an action, as authorized under this Ordinance, in the Superior or Circuit Court of Allen County.

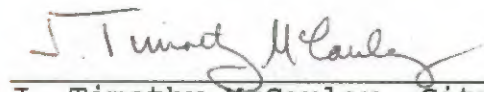
SECTION 8. COLLECTION OF PENALTIES. Any civil

penalties imposed under Sections 2, 3 and 4 of this Ordinance shall be paid to the Allen County Auditor for deposit into an account maintained for the use and benefit of the Local Emergency Planning Committee.

SECTION 9. EFFECTIVE DATE. This Ordinance shall take effect and be in force immediately upon its adoption.


Councilmember

APPROVED AS TO FORM
AND LEGALITY


J. Timothy McCaulay, City Attorney

Read the first time in full and on motion by Bradbury, seconded by DeLoach, and duly adopted, read the second time by title and referred to the Committee on Regulation (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Conference Room 128, City-County Building, Fort Wayne, Indiana, on _____, the _____ day of _____, 19____, at _____ o'clock _____ M., E.S.T.

DATED: 2-13-90

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Read the third time in full and on motion by Bradbury, seconded by DeLoach, and duly adopted, placed on its passage. PASSED ~~LOST~~ by the following vote:

	AYES	NAYS	ABSTAINED	ABSENT
TOTAL VOTES	<u>9</u>			
BRADBURY	<u>✓</u>			
BURNS	<u>✓</u>			
EDMONDS	<u>✓</u>			
GIAQUINTA	<u>✓</u>			
HENRY	<u>✓</u>			
LONG	<u>✓</u>			
REDD	<u>✓</u>			
SCHMIDT	<u>✓</u>			
TALARICO	<u>✓</u>			

DATED: 3-13-90

Nedgia Eckhoff
SANDRA E. KENNEDY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (ANNEXATION) _____ (APPROPRIATION) _____ (GENERAL) _____ (SPECIAL) _____ (ZONING MAP) _____ ORDINANCE RESOLUTION NO. 9-02-90 on the 13th day of March, 1990.

ATTEST
Nedgia Eckhoff
SANDRA E. KENNEDY, CITY CLERK

SEAL
Charles S. Reed
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 14th day of March, 1990, at the hour of 11:30 o'clock P. M., E.S.T.

Nedgia Eckhoff
SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this 23rd day of March, 1990, at the hour of 5:00 o'clock P. M., E.S.T.

Paul Helmke
PAUL HELMKE, MAYOR

Admn. Appr. _____

DIGEST SHEET

as amended.

TITLE OF ORDINANCE GENERAL ORDINANCE

D-90-02-10

DEPARTMENT REQUESTING ORDINANCE BOARD OF PUBLIC SAFETY

SYNOPSIS OF ORDINANCE REQUIRES OWNERS AND OPERATORS OF FACILITIES

TO REPORT THE PRESENCE OF HAZARDOUS CHEMICALS, HAZARDOUS MATERIALS,

AND HAZARDOUS SUBSTANCES; TO PROVIDE SUCH REPORTS TO THE ALLEN

COUNTY LOCAL EMERGENCY PLANNING COMMITTEE AND THE FORT WAYNE

FIRE DEPARTMENT.

EFFECT OF PASSAGE ⁷ EASES MONITORING OF COMPLIANCE WITH THE

FEDERAL ACT.

EFFECT OF NON-PASSAGE NON-COMPLIANCE OF MONITORING UNDER THE FEDERAL ACT

MONEY INVOLVED (DIRECT COSTS, EXPENDITURES, SAVINGS)

ASSIGNED TO COMMITTEE (PRESIDENT)

BILL NO. _____

G-90-02-10

Shold
3 March 6

REPORT OF THE COMMITTEE ON REGULATIONS

JANET G. BRADBURY, CHAIRPERSON
DAVID C. LONG, VICE CHAIRMAN
EDMONDS, SCHMIDT, TALARICO

As Amended

WE, YOUR COMMITTEE ON _____ REGULATIONS _____ TO WHOM WAS

REFERRED AN (ORDINANCE) (~~RESOLUTION~~) amending Chapter
12 of the Fort Wayne City Code to add a New Article VI thereto
entitled "COMMUNITY RIGHT TO KNOW"

HAVE HAD SAID (ORDINANCE) (~~RESOLUTION~~) UNDER CONSIDERATION
AND BEG LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID
(ORDINANCE) (RESOLUTION) _____

DO PASS

DO NOT PASS

ABSTAIN

NO REC

Janet G. Bradbury

D. Schmidt

Clifford R. Edmonds

Samuel Talarico



2-13-90

Sandra E. Kennedy
Sandra E. Kennedy
City Clerk
Deputy



THE CITY OF FORT WAYNE

CITY-COUNTY BUILDING • ROOM 122 • FORT WAYNE, INDIANA 46802 • 219-427-1208

SANDRA E. KENNEDY, CITY CLERK

March 29, 1990

Ms. Connie Lambert
Fort Wayne Newspapers, Inc.
600 West Main Street
Fort Wayne, IN 46802

Dear Ms. Lambert:

Please give the attached full coverage on the dates of
April 2 & April 9, 1990, in both the News Sentinel and
Journal Gazette.

RE: Legal Notice for Common Council
of Fort Wayne, IN

Bill No. G-90-02-10 (as amended)
General Ordinance No. G-02-90
Hazardous Substance

Please send us 4 copies of the Publisher's Affidavit from
both newspapers.

Thank you.

Sincerely yours,

Sandra E. Kennedy
City Clerk

SEK/ne
ENCL: 1

Notice is hereby given that on the 13th day of March, 1990, the Common Council of the City of Fort Wayne, Indiana, in a Regular Session did pass the following Bill No. G-90-02-10 (as amended) General Ordinance No. G-02-90 to-wit:

BILL NO. G-90-02-10 (as amended)

GENERAL ORDINANCE NO. 02-90

AN ORDINANCE amending Chapter 12 of the Fort Wayne City Code to add a New Article VI thereto entitled "COMMUNITY RIGHT TO KNOW."

ARTICLE VI COMMUNITY RIGHT TO KNOW

SECTION 1. DEFINITIONS. As used in this Article VI:

(a) The term "Extremely Hazardous Substance" means any substance so designated by the U.S. EPA by regulations adopted under the federal Act.

(b) The term "Facility" means all buildings, equipment, structures, and other stationery items that are located on a single site or on contiguous or adjacent sites and that are owned, operated or leased by the same person or by any person who controls, is controlled by, or is under common control with that person. For purposes of the notification required by Section 5 hereof, the term includes motor vehicles, rolling stock and aircraft.

(c) The term "Federal Act" means Title III of the "Superfund Amendments and Reauthorization Act of 1986," 100 STAT. 1728, 42 U.S.C. 11001, as amended.

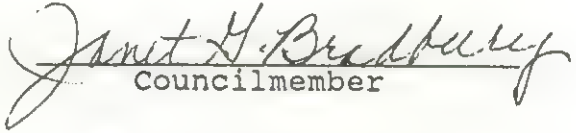
(d) The term "Fire Department" means the Fire Department of the City of Fort Wayne.

(e) The term "Hazardous Chemical" has the meaning given to that term in 29 C.F.R. 1910.1200(c), but does not include any of the following:

(i) Any food, food additive, color additive, drug, or cosmetic regulated by the Food and Drug Administration of the United States Department of Health and Human Services;

(ii) Any substance present as a solid in any manufactured item to the extent that exposure to the substance does not occur under normal conditions of use;

SECTION 9. EFFECTIVE DATE. This Ordinance shall take effect and be in force immediately upon its adoption.


Councilmember

Read the third time in full and on motion by Bradbury, seconded by Talarico, and duly adopted, placed on its passage. PASSED by the following vote:

Ayes: Nine
Bradbury, Burns, Edmonds, GiaQuinta, Henry,
Long, Redd, Schmidt, Talarico

Nays: None
Abstained: None
Absent: None

DATED: 3-13-90

Nadejda Eshcoff
Deputy Clerk

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as General Ordinance No. G-02-90 on the 13th day of March, 1990.

ATTEST:

SEAL

Nadejda Eshcoff
Deputy Clerk

Charles B. Redd
Presiding Officer

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 14th day of March, 1990, at the hour of 11:30 o'clock A.M., E.S.T.

Nadejda Eshcoff
Deputy Clerk

Approved and signed by me this 23rd day of March, 1990, at the hour of 5:00 o'clock P.M., E.S.T.

Paul Helmke
Mayor

I, The Clerk of the City of Fort Wayne, Indiana do hereby certify that the above and foregoing is a full, true and complete copy of

General _____ Ordinance No. G-02-90,
passed by the Common Council on the 13th day of
March, 19 90, and that said Ordinance was
duly signed and approved by the Mayor on the 23rd day of
March, 19 90, and now remains on file and
on record in my office.

WITNESS my hand, and the official seal of the City of Fort Wayne, Indiana, this 25th day of March, 19 90.

SEAL

SANDRA E. KENNEDY, CITY CLERK

Fort Wayne Common Council
(Governmental Unit)
Allen
County, Indiana

To: The News-Sentinel
P.O. Box 100
Fort Wayne, IN
Dr.

PUBLISHER'S CLAIM

LINE COUNT

Display Matter (Must not exceed two actual lines, neither of which shall total more than four solid lines of type in which the body of the advertisement is set)
-- number of equivalent lines
Head -- number of lines
Body -- number of lines
Tail -- number of lines
Total number of lines in notice

COMPUTATION OF CHARGES

382 lines, 1 columns wide equals 382 equivalent lines
at .495 cents per line \$ 189.09
Additional charge for notices containing rule or tabular work (50 percent of above amount)
Charge for extra proofs of publication (\$1.00 for each proof in excess of two) 2.00
TOTAL AMOUNT OF CLAIM \$ 191.09

DATA FOR COMPUTING COST

Width of single column 12.5 ems
Number of insertions 2
Size of type 6 point

Pursuant to the provisions and penalties of Chapter 155, Acts 1953,

I hereby certify that the foregoing account is just and correct, that the amount claimed is legally due, after allowing all just credits, and that no part of the same has been paid.

Date: April 9, 19 90 Title: Clerk
Nicole Allred

PUBLISHER'S AFFIDAVIT

State of Indiana)
I, _____, of the County of _____, State of Indiana, do hereby certify that I am a duly qualified and sworn Notary Public for the State of Indiana, and that I am duly qualified and sworn to perform the duties of my office.
SECTION 2. REPORTING REQUIREMENTS.
(a) Except as provided in subparagraph (d) of this section, any person who owns or operates a Facility and is required to prepare or have available a Material Safety Data Sheet for a Hazardous Chemical under the "Occupational Safety and Health Act of 1970," 84 STAT. 1590, 29 U.S.C. 651, as amended, and regulations promulgated thereunder, and who has not already complied with the provisions of this Section (a), shall, no later than thirty (30) days after the effective date of this ordinance, submit to the Local Emergency Planning Committee and the Fire Department a list of any Hazardous Chemicals and Extremely Hazardous Substances that are present at the Facility in an amount that exceeds the threshold level applicable to each Hazardous Chemical or Extremely Hazardous Substance established by regulations adopted under the Federal Act. The list shall include all of the following:
(i) A listing of the Hazardous Chemical and Extremely Hazardous Substances for which a Material Safety Data Sheet is required, grouped by hazard category in the manner prescribed by regulations adopted under the Federal Act;
(ii) The chemical name or common name of each Hazardous Chemical and Extremely Hazardous Substance;
(iii) Except for the reporting of mixtures under subparagraph (b) of this Section, any hazardous component of each Hazardous Chemical as provided in the Material Safety Data Sheet;
(iv) For each Hazardous Chemical or Extremely Hazardous Substance, an indication as to whether the owner or operator of the Facility has withheld information pursuant to a trade secret claim under the Federal Act.
(b) The owner or operator of the Facility may meet the requirements of subparagraph (a) of this Section for a Hazardous Chemical that consists of a mixture of Hazardous Chemicals by (i) providing the information required by subparagraph (ii) providing information required by subparagraph (a) of

personally appeared before me, a notary public in and for said county and state, the undersigned Nicole Allred who, being duly sworn, says that he/ she is Clerk of the The News-Sentinel newspaper of general circulation printed and published in the English language in the (city) (town) of Fort Wayne, IN in state and county aforesaid, and that the printed matter attached hereto is a true copy, which was duly published in said paper for TWO time (s), the dates of publication being as follows:
4/2, 9/90
Subscribed and sworn to before me this 9th day of April, 1990.
Notary Public Whitley County, IN
SHELLEY R. LARUE
My commission expires: March 3, 1994

the reporting period:
(iv) A brief description of the manner of storage of the Hazardous Chemical or Extremely Hazardous Substance;
(v) All nonconfidential locations of the Hazardous Chemical or Extremely Hazardous Substance at the Facility; and
(vi) An indication as to whether the owner or operator chooses to assert a trade secret claim with respect to any Hazardous Chemical or Extremely Hazardous Substance that was present at the Facility at any time during the preceding year in accordance with the provisions of the Federal Act. The owner or operator of such Facility shall submit the Tier II information on an Inventory Form prescribed by the Committee.
(b) No person shall fail to comply with this Section. Each day that a person is in noncompliance with this Section shall constitute a separate violation hereunder, and any person who violates this Section shall pay a civil penalty of not more than Two Thousand Five Hundred Dollars (\$2,500) for each such violation. The Committee may, in its discretion, commence an action under this Section against any person who violates the provisions of this Section. Any action under this Section is a civil action, governed by the general rules, practice and procedure applicable to civil actions in the state of Indiana. In addition to an action for civil penalties, the Committee may, in its discretion, bring an action for injunctive relief to permanently enjoin any person from further violations of the provisions of this Section and the Federal Act.
SECTION 4. AFFIRMATIVE OBLIGATIONS.
The owner or operator of any Facility at which there is present a Hazardous Chemical or an Extremely Hazardous Substance in an amount that exceeds the threshold level for that substance established by regulations adopted under the Federal Act shall, in accordance with such Act, and regulations promulgated thereunder, do all of the following:
(a) No later than three (3) months after becoming subject to the Federal Act, notify the Local Emergency Planning Committee that the Facility is subject to the Federal Act, and shall further notify the Local Emergency Planning Committee of a Facility Representative who will participate in the Committee's Emergency Planning Process as the Facility Emergency Coordinator;
(b) Promptly inform the Local Emergency Planning Committee of any changes occurring at the Facility that may be relevant to the Emergency Planning Process;
(c) Upon request of the Local Emergency Planning Committee, promptly provide information to the Committee that is necessary for developing and implementing the Local Emergency Response Plan, as the term is defined under the Federal Act. Information that is provided under this Section is subject to the restrictions on the release of trade secret information under the Federal Act;
(d) No person shall fail to comply with this Section. Each day that a person is in noncompliance with this Section shall constitute a separate violation hereunder, and any person who violates this Section shall pay a civil penalty of not more than Two Thousand Five Hundred Dollars (\$2,500) for each such violation. The Committee may, in its discretion, commence an action under this Section against any person who violates the provisions of this Section. Any action under this Section is a civil action, governed by the general rules, practice and procedure applicable to civil actions in the state of Indiana. In addition to an action for civil penalties, the Committee may, in its discretion, bring an action for injunctive relief to permanently enjoin any person from further violations of the provisions of this Section and the Federal Act.
SECTION 5. EVENT OF A RELEASE.
(a) In the event of a release of a Hazardous Chemical or an Extremely Hazardous Substance from a Facility that is reportable under the Federal Act, the owner or operator of such Facility shall immediately notify both the Local Emergency Planning Committee and the Fire Department.
(b) For any release for which a written follow-up emergency notice is required by the Federal Act, that notice shall be provided to the Local Emergency Planning Committee.
(c) Whenever an owner or operator of a Facility is required to submit any report to the U.S. EPA under regulations adopted under Section 104 of the "Comprehensive Environmental Response, Compensation and Liability Act of 1980," 94 STAT. 2767, 42 U.S.C. 9601, as amended, concerning the circumstances relating to the sudden, accidental release of a Hazardous Chemical or Extremely Hazardous Substance at or from the Facility, such owner or operator shall submit a copy of the Report to the Local Emergency Planning Committee at the same time.
SECTION 6. SUPPLEMENT TO STATE AND FEDERAL LAW.
It is the intent of this Ordinance to supplement the provisions of the Federal Act and such other federal and state statutes, rules and regulations as may be applicable with respect to any Facility that produces, uses, stores or otherwise has possession of Hazardous Chemical, Hazardous Substances or Extremely Hazardous Substances. No provision of this Ordinance shall be deemed to supersede any federal or state requirement and to the extent that any provision herein conflicts with the Federal Act or any other federal or state statute, rule or regulation, such federal or state statute, rule or regulation shall control.
SECTION 7. JURISDICTION AND ENFORCEMENT.
The Local Emergency Planning Committee shall have the responsibility of enforcing the provisions of this Ordinance and may bring an action, as authorized under this Ordinance, in the Superior or Circuit Court of Allen County.
SECTION 8. COLLECTION OF PENALTIES.
Any civil penalties imposed under Sections 2, 3 and 4 of this Ordinance shall be paid to the Allen County Auditor for deposit into an account maintained for the use and benefit of the Local Emergency Planning Committee.
SECTION 9. EFFECTIVE DATE.
This Ordinance shall take effect and be in force immediately upon its adoption.

Janet G. Bradbury
Councilmember
Read the third time in full and on motion by Bradbury, seconded by Talarico, and duly adopted, placed on its passage, PASSED by the following vote:
Ayes: Nine - Bradbury, Burns, Edmonds, GiaQuinta, Henry, Long, Redd, Schmidt, Talarico
Nays: None
Abstained: None
Absent: None
DATED: 3-13-90
Nadejda Eshcoff
Deputy Clerk
Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as General Ordinance No. G-02-90 on the 13th day of March, 1990.
ATTEST: Nadejda Eshcoff, Deputy Clerk
SEAL: Charles B. Redd, Presiding Officer
Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 14th day of March, 1990, at the hour of 11:30 A.M., E.S.T.
Nadejda Eshcoff
Deputy Clerk
Approved and signed by me this 23rd day of March, 1990, at the hour of 5:00 P.M., E.S.T.
Paul Helmke
Mayor
I, The Clerk of the City of Fort Wayne, Indiana, do hereby certify that the above and foregoing is a full, true and complete copy of General Ordinance No. G-02-90, passed by the Common Council on the 13th day of March, 1990, and that said Ordinance was duly signed and approved by the Mayor on the 23rd of March, 1990, and now remains on file and on record in my office.
WITNESS my hand, and the official seal of the City of Fort Wayne, Indiana, this 25th day of March, 1990.
Sandra E. Kennedy, City Clerk
4-2-9
Allen County)
Personally appeared before me, a notary public in and for said county and state, the undersigned Nicole Allred who, being duly sworn, says that he/she is Clerk of the The News-Sentinel newspaper of general circulation printed and published in the English language in the (city) (town) of Fort Wayne, IN in state and county aforesaid, and that the printed matter attached hereto is a true copy, which was duly published in said paper for two time (s), the dates of publication being as follows:
4/2, 9/90
Nicole Allred
Subscribed and sworn to before me this 9th day of April, 1990.

General Form No. 99P (Revised 1987)

The News-Sentinel Dr.
P.O. Box 100
Fort Wayne, IN

CLAIM

which shall total
retirement is set)

ivalent lines	\$ 189.09
ccess of two)	2.00
	\$ 191.09

953,

that the amount
at no part of the

Nicole Allred

Clerk

FIDAVIT

Personally appeared before me, a notary public in and for said county and state, the undersigned Nicole Allred who, being duly sworn, says that he/she is Clerk of the The News-Sentinel newspaper of general circulation printed and published in the English language in the (city) (town) of Fort Wayne, IN in state and county aforesaid, and that the printed matter attached hereto is a true copy, which was duly published in said paper for two time (s), the dates of publication being as follows:
4/2, 9/90
Nicole Allred
Subscribed and sworn to before me this 9th day of April, 1990.

PUBLISHER'S CLAIM

LINE COUNT

Display Matter (Must not exceed two actual lines, neither of which shall total more than four solid lines of type in which the body of the advertisement is set)
-- number of equivalent lines

Head -- number of lines

Body -- number of lines

Tail -- number of lines

Total number of lines in notice

COMPUTATION OF CHARGES

382 lines, 1 columns wide equals 382 equivalent lines
at .495 cents per line

\$ 189.09

Additional charge for notices containing rule or tabular work
(50 percent of above amount)

2.00

Charge for extra proofs of publication (\$1.00 for each proof in excess of two)

\$ 191.09

TOTAL AMOUNT OF CLAIM

DATA FOR COMPUTING COST

Width of single column 12.5 ems

Number of insertions 2

Size of type 6 point

Pursuant to the provisions and penalties of Chapter 155, Acts 1953,

I hereby certify that the foregoing account is just and correct, that the amount claimed is legally due, after allowing all just credits, and that no part of the same has been paid.

Nicole Allred

Date: April 9, 19 90

Title: Clerk

PUBLISHER'S AFFIDAVIT

State of Indiana)

) ss:

Allen County)

Personally appeared before me, a notary public in and for said county and state, the undersigned Nicole Allred who, being duly sworn, says that he/ she is Clerk of the The Journal-Gazette newspaper of general circulation printed and published in the English language in the (city) (town) of Fort Wayne, IN in state and county aforesaid, and that the printed matter attached hereto is a true copy, which was duly published in said paper for two time(s), the dates of publication being as follows:

4/2, 9/90

Nicole Allred

Subscribed and sworn to before me this 9th day of April, 19 90.

Shelley R. Larue

Notary Public Whitley County, IN
SHELLEY R. LARUE

My commission expires: March 3, 1994

stice is hereby given that on the 13th day of March, 1990, the Common Council of the City of Fort Wayne, Indiana, in a Regular Session did pass the following Bill: G-90-02-10 (as amended) General Ordinance G-02-90 to wit:

BILL NO. G-90-02-10 (as amended)
GENERAL ORDINANCE NO. 02-90
ORDINANCE amending Chapter 12 of the Fort Wayne City Code to add a New Article VI thereto titled "COMMUNITY RIGHT TO KNOW."

ARTICLE VI COMMUNITY RIGHT TO KNOW
SECTION 1. DEFINITIONS. As used in this Article

(a) The term "Extremely Hazardous Substance" means any substance so designated by the U.S. EPA regulations adopted under the Federal Act.

(b) The term "Facility" means all buildings, equipment, structures, and other stationery items that are located on a single site or on contiguous or adjacent sites and that are owned, operated or leased by the same person or by any person who controls, is controlled by, or is under common control with that person. For purposes of the notification required by Section 5 hereof, the term included motor vehicles, floating stock and aircraft.

(c) The term "Federal Act" means Title III of the Superfund Amendments and reauthorization Act of 1986, 100 STAT. 1728, 42 U.S.C. 11001, as amended.

(d) The term "Fire Department" means the Fire Department of the City of Fort Wayne.

(e) The term "Hazardous Chemical" has the meaning given to that term in 29 C.F.R. 1910.1200 (c), but does not include any of the following:

(i) Any food, food additive, color additive, drug, or cosmetic regulated by the Food and Drug Administration of the United States Department of Health and Human Services;

(ii) Any substance present as a solid in any manufactured item to the extent that exposure to the substance does not occur under normal conditions of use;

(iii) Any substance to the extent it is used for personal, family, or household purposes or is present in the same form and concentration as a product packaged for distribution to and used by the general public, including, without limitation, household and consumer products that are stored prior to or displayed for distribution to the consumer when in the same form and concentration as such products when intended for use by the general public in the same form and concentration;

(iv) Any substance to the extent it is used in a research laboratory or hospital or other medical facility under the direct supervision of a technically qualified individual;

(v) Any substance to the extent it is used in routine agricultural operations or is a fertilizer held for sale by a retailer to the ultimate customer.

(f) The term "Hazardous Material" has the meaning given to that term in 49 C.F.R. 171.8.

(g) The term "Hazardous Chemical" means any substance so designated under the "Comprehensive Environmental Response, Compensation, and Liability Act of 1980" 94 STAT. 2767, 42 U.S.C. 9601, as amended and regulations promulgated thereunder.

(h) The term "Local Emergency Planning Committee"

provisions of this Section. Any action under this Section is a civil action, governed by the general rules, practice and procedure applicable to civil actions in the states of Indiana. In addition to an action for civil penalties, the Committee may, in its discretion, bring an action for injunctive relief to permanently enjoin any person from further violations of the provisions of this Section and the Federal Act.

SECTION 3. ANNUAL REPORTING REQUIREMENTS.

(a) The owner or operator of a Facility that is required to prepare or have available a Material Safety Data Sheet for a Hazardous Chemical under the "Occupational Safety and Health Act of 1970," 84 STAT. 1590, 29 U.S.C. 1651, as amended, and regulations promulgated thereunder, and that had present at the Facility during the preceding calendar year an amount of a Hazardous Chemical or an Extremely Hazardous Substance exceeding the threshold level for that chemical or substance established by regulations adopted under the Federal Act shall, no later than the effective date of this Ordinance, and no later than the first day of March annually thereafter, submit an Emergency and Hazardous Chemical Inventory Form (the "Inventory Form") to the Local Emergency Planning Committee and to the Fire Department. The Inventory Form shall be that prescribed by the Committee and shall contain for each such Hazardous Chemical or Extremely Hazardous Substance information that has been designated as Tier I information under the Federal Act. The owner or operator of such Facility may submit an Inventory Form containing information that has been designated as Tier II information under the Federal Act in lieu of Tier I information for any Hazardous Chemical or Extremely Hazardous Substance present at the Facility.

Upon request of the Local Emergency Planning Committee or the Fire Department, the owner or operator of a facility that is subject to this Section shall, no later than 30 days after receiving such request, submit an Inventory Form containing information that has been designated as Tier II information under the Federal Act. Such Inventory Form shall include all of the following information:

(i) The chemical name or common name of the chemical as provided on the Material Safety Data Sheet;

(ii) An estimate of the maximum daily amount, in pounds, of the Hazardous Chemical reported in reporting ranges as established in regulations adopted under the Federal Act present at the Facility on any single day during the reporting period;

(iii) An estimate in pounds of the average daily amount of the Hazardous Chemicals reported in such reporting ranges that are present at the Facility during the reporting period;

(iv) A brief description of the manner of storage of the Hazardous Chemical or Extremely Hazardous Substance;

(v) All nonconfidential locations of the Hazardous Chemical or Extremely Hazardous Substance at the Facility; and

(vi) An indication as to whether the owner or operator chooses to assert a trade secret claim with respect to any Hazardous Chemical or Extremely Hazardous Substance that was present at the Facility

and state statute, rule or regulation that is applicable with respect to any Facility that produces, uses, stores or otherwise has possession of Hazardous Chemical, Hazardous Substances or Extremely Hazardous Substances. No provision of this Ordinance shall be deemed to supersede any federal or state requirement and to the extent that any provision herein conflicts with the Federal Act or any other federal or state statute, rule or regulation, such federal or state statute, rule or regulation shall control.

SECTION 7. JURISDICTION AND ENFORCEMENT.

The Local Emergency Planning Committee shall have the responsibility of enforcing the provisions of this Ordinance and may bring an action, as authorized under this Ordinance, in the Superior or Circuit Court of Allen County.

SECTION 8. COLLECTION OF PENALTIES.

Any civil penalties imposed under Sections 2, 3 and 4 of this Ordinance shall be paid to the Allen County Auditor for deposit into an account maintained for the use and benefit of the Local Emergency Planning Committee.

SECTION 9. EFFECTIVE DATE.

This Ordinance shall take effect and be in force immediately upon its adoption.

Janet G. Bradbury
Councilmember

Read the third time in full and on motion by Bradbury, seconded by Talarico, and duly adopted, placed on its passage. PASSED by the following vote:

Ayes: Nine - Bradbury, Burns, Edmonds, GiaQuinta, Henry, Long, Redd, Schmidt, Talarico

Nays: None
Abstained: None

Absent: None
DATED: 3-13-90

Nadejda Eshcoff
Deputy Clerk

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as General Ordinance No. G-02-90 on the 13th day of March, 1990.

ATTEST: Nadejda Eshcoff, Deputy Clerk

SEAL: Charles B. Redd, Presiding Officer
Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 14th day of March, 1990, at the hour of 11:30 A.M., E.S.T.

Nadejda Eshcoff
Deputy Clerk

Approved and signed by me this 23rd day of March, 1990, at the hour of 5:00 P.M., E.S.T.

Paul Heimke
Mayor

I, The Clerk of the City of Fort Wayne, Indiana do hereby certify that the above and foregoing is a full, true and complete copy of General Ordinance No. G-02-90, passed by the Common Council on the 13th day of March, 1990, and that said Ordinance was duly signed and approved by the Mayor on the 23rd of March, 1990, and now remains on file and on record in my office.

WITNESS my hand, and the official seal of the City of Fort Wayne, Indiana, this 25th day of March, 1990.

Sandra E. Kennedy, City Clerk

PUBLISH

State of Indiana)

) ss:

Allen County)

Personally appeared before

undersigned Nicole

she is Clerk

circulation printed and

Fort Wayne, IN in

attached hereto is a true

two time(s), this

4/2, 9/90

Subscribed and sworn to before me

My commission expires: _____